

**§ 92.31 Liquidation from final payment.**

If the employee retires, resigns his or her employment, is terminated, or the employment or period of active duty ends before collection of the debt is completed, there shall be an offset from subsequent payments of any nature (e.g., final salary, lump sum leave, etc.) due the employee from the DOT operating element on the date of separation to the extent necessary to liquidate the debt.

**§ 92.33 Recovery from other payments due a separated employee.**

If the debt cannot be liquidated by offset from any final payment due the employee as of the date of separation, the DOT operating element shall liquidate the debt by administrative offset pursuant to 31 U.S.C. 3716 from later payments of any kind due the former employee from the United States, where appropriate (see § 92.41(b)(2)(ii)).

**§ 92.35 Interest, penalties and administrative costs.**

(a) Where a DOT creditor operating element (see § 92.5(g)) is the creditor, it shall charge interest on an outstanding debt at the rate published by the Secretary of the Treasury in accordance with 31 U.S.C. 3717. The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the FEDERAL REGISTER and the Treasury Financial Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. The DOT creditor operating element shall charge a penalty of six percent a year, in addition to interest, on any portion of a debt that is more than 90 days past due. It shall assess administrative charges to cover additional costs incurred in processing and handling the debt beyond the payment due date. The imposition of interest, penalties and administrative charges is made in accordance with 31 U.S.C. 3717 and 4 CFR 102.13.

(b) Interest on debt shall begin to accrue on the date on which the debtor is first sent or delivered notice of the

debt and of the interest requirements or, in the case of advance billings, on the calendar date following the specified due date of the debt provided the advance billing gives notice of the interest requirements for late payment. Interest on the debt shall continue to accrue until payment is received. Interest shall be calculated only on the principal of the debt (simple interest). The rate of interest charged shall be the rate in effect on the date from which interest begins to accrue, and shall remain fixed for the duration of the indebtedness.

(c) A DOT creditor operating element shall waive the monthly interest on debt that is paid within 30 calendar days after the date on which interest began to accrue.

(d) A DOT creditor operating element may waive interest, penalties and/or administrative charges if it finds that:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of interest, penalties or administrative charges will jeopardize collection of the principal of the debt; or

(3) It is otherwise in the best interest of the United States, including the situation where an offset or installment payment agreement is in effect.

**§ 92.37 Non-waiver of rights by payment.**

An employee's payment or agreement to pay, whether voluntary or involuntary, of all or any portion of an alleged debt being collected pursuant to these procedures shall not be construed as a waiver of any rights which the employee may have under this part to the extent of such payment or agreement.

**§ 92.39 Refunds.**

(a) Amounts paid or deducted from the account of a current or former employee of the United States Government, pursuant to this part, for a debt which is found not owing to the United States shall be promptly refunded to the employee.

(b) Amounts which are waived shall, after proper application, be promptly returned after approval of the application.